

Docket No.: 30275/939B
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gerard Mourou et al.

Application No.: 09/775,069

Confirmation No.: 1906

Filed: February 1, 2001

Art Unit: 1725

For: METHOD FOR CONTROLLING
CONFIGURATION OF LASER INDUCED
BREAKDOWN AND ABLATION

Examiner: G. S. Evans

RESUBMISSION OF RESPONSE TO DECEMBER 29, 2009 FINAL ACTION

&

PETITION UNDER 37 C.F.R. § 1.183

Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

This paper is being submitted in response to the July 29, 2009 decision to dismiss the June 29, 2009 petition under 37 C.F.R. § 1.47, indicating that that petition should have been under 37 C.F.R. § 1.183.

As establish below, one of the joint inventors who had previously executed numerous declarations in this application, including a prior supplemental declaration, has refused to sign the current supplemental declaration. All other inventors have signed however.

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Pursuant to MPEP 1414.01, applicant respectfully petitions the Commissioner under 37 C.F.R. § 1.183 to suspend the requirement under 37 C.F.R. § 1.175 that all of the inventors must sign the supplemental reissue declaration, and to waive the signature

requirement for the non-signing inventor. It is requested that, based on the following, the attached supplemental declaration be accepted and entered.

The June 29, 2009 petition include the fee set forth under 37 C.F.R. §1.17(g). The fee required for petition under 37 C.F.R. 1.183 is set forth under 37 C.F.R. §1.17(f). It is, therefore, believed that only the difference between the two fees (\$200) is required. Please charge that fee to Deposit Account No. 13-2855.

REMARKS

Claims 46-67 are pending and at issue. The office action and the subsequent February 11, 2009 advisory action have confirmed that claims 46-67 are allowable over the prior art.

The only rejection in this case is that of claims 46-67, which are rejected as based upon a defective reissue declaration. The office action acknowledges that the original reissue declaration filed with the parent reissue application lists specific errors corrected in the present divisional application. The office action points out, however, that additional errors (stemming from amendments during prosecution of this divisional application) are also now being addressed by the conditionally-allowed claims.

Accordingly, applicant has submitted herein an executed supplemental reissue declaration (now the third such supplemental) under 37 C.F.R. § 1.175(b) (*Ex. A*). The supplemental reissue declaration is executed by all of the inventors, except Ron Kurtz who has refused to execute. Thus, pursuant to 37 C.F.R. § 1.183 and the accompanying Statement of Facts of Richard A. Brandon (*Ex. B*), applicant petitions acceptance of the supplemental reissue declaration, and allowance of this application.

Mr. Kurtz executed the original reissue declaration in the parent application on July 22, 1999 (*Ex. C*). Mr. Kurtz subsequently executed two supplemental declarations in the present divisional application, one on February 24, 2004 (*Ex. D*), and another on September 15, 2007 (*Ex. E*). As indicated in the attached Statement of Facts (*Ex. B*), representatives for the assignee repeatedly contacted Mr. Kurtz beginning on or about February 2, 2009 of this

year to have Mr. Kurtz complete a third supplemental reissue declaration pertaining to amendments made to the claims in the fall of 2008 and early 2009. After repeated email communications with Mr. Kurtz, requesting that he execute the third supplemental reissue declaration, Mr. Kurtz would not sign. As indicated, the last attempt at reaching Mr. Kurtz was made June 29, 2009, via email, and Mr. Kurtz had refused to respond or otherwise provide an executed third supplemental reissue declaration.

An assignment of the invention in favor of The Regents of the University of Michigan has been previously submitted.

CONCLUSION

On the basis of these facts and for the foregoing reasons, it is solicited that the attached supplemental reissue declaration be accepted under 37 C.F.R. 1.183.

Should the Petitions Officer have any question of form or substance, he or she is encouraged to contact the undersigned attorney at the telephone number and address listed below.

This petition is accompanied by a petition to revive for unintentional abandonment, under 35 C.F.R. 1.137(b).

Dated: September 4, 2009

Respectfully submitted,

By 

Paul B. Stephens

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